

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

LARRY COLEMAN HICKS §
v. § CIVIL ACTION NO. 6:18cv308
MATT BINGHAM, ET AL. §

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

The Plaintiff Larry Hicks, a prisoner of the Smith County Jail proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. This Court referred the matter to the Honorable John D. Love, United States Magistrate Judge, for consideration pursuant to applicable laws and orders of this court.

After review of the pleadings, the magistrate judge recommended dismissal of the lawsuit because two of the Defendants, Judge Kerry Russell and District Attorney Matt Bingham, are immune from suit under the doctrines of judicial and prosecutorial immunity, and he failed to show any personal involvement in a constitutional deprivation on the part of the third Defendant, parole officer Karl Gentry. In addition, Plaintiff sought to file criminal charges against Gentry, which he may not do through the vehicle of a civil rights lawsuit. The court has received and considered the Report and Recommendation of the United States Magistrate Judge, along with the record, pleadings and all available evidence.

Plaintiff filed objections to the magistrate judge's Report and Recommendation arguing that the incident was captured on videotape and on Gentry's iPhone. He contends that one of these videos, which he claims is from a surveillance camera planted in his neighbor's house, spans a period of eight years and that some 15 witnesses, most of whom Plaintiff states are judicial officials, know this video exists but not a single one of these witnesses is willing to speak of the video on the record. According to Plaintiff, the existence of this video proves there is a conspiracy against him;

he claims that the infrared feature on this video camera is so strong that it caused him to have tinnitus. Plaintiff asserts that this camera was planted by a sheriff's deputy named Mark Stinecipher, whom he claims is "the absolute pivotal force behind the conspiracy," but Plaintiff did not name Stinecipher as a defendant in this lawsuit. Plaintiff did not address any of the bases upon which the magistrate judge recommended dismissal of the lawsuit.

The court conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes Plaintiff's objections lack merit.

ORDER

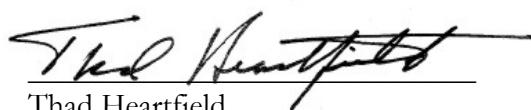
Accordingly, Plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. It is

ORDERED that the above-styled civil action is **DISMISSED WITH PREJUDICE** as frivolous and for failure to state a claim upon which relief may be granted. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations. It is further

ORDERED that the Plaintiff Larry Coleman Hicks is hereby **WARNED** that any future filing of frivolous, malicious, scurrilous, or repetitive lawsuits, pleadings, motions, letters, or other documents, in this or any other case, may result in the imposition of sanctions, including but not limited to monetary sanctions or restrictions on the filing of lawsuits or motions, or both, in accordance with Rule 11 of the Federal Rules of Civil Procedure. Finally, it is

ORDERED that all motions not previously ruled upon are hereby **DENIED**.

SIGNED this the 28 day of **November, 2018**.



Thad Heartfield
United States District Judge